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STATE OF DELAWARE
PUBLIC SERVICE COMMISSION

861 SILVER LAKE BOULEVARD
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904
December 18, 1997

TELEPHONE: (302) 739 - 4247
FAX: (302) 739 - 4849

Office of the Secretary
Federal Communications Comm.
CC Docket No. 96-45
1919 M Street, N.W.
Washington, D.C. 20554

Ms. Sheryl Todd
Federal Communications Comm.
Universal Service Branch
CC Docket No. 96-45
2100 M Street, N.W., 8th Floor
Washington, D.C. 20554

Universal Service Administrative Co.
100 South Jefferson Road
Whippany, New Jersey 07981

Re: **State of Delaware - \$1.75**
Participation in Revised
Lifeline and Link Up Programs

Gentle persons:

Pursuant to Public Notice DA 97-1892, the Delaware Public Service Commission notifies you that, on December 16, 1997, it authorized a reduction in end-user rates for supported services provided to eligible Lifeline subscribers (as identified by 47 C.F.R. § 54.409(b)) in the amount of \$1.75. This amount is in addition to the \$3.50 federal baseline amount for a total amount of support of \$5.25. The Commission took such action in PSC Order No. 4684 (Dec. 16, 1997).

The Commission has directed eligible telecommunications carriers to file with the FCC the information required by 47 C.F.R. § 54.401(d).

If you have any questions, please call me at (302) 739-3223. I also ask that the Secretary and USAC return to me, in the enclosed envelope, a stamp-filed copy of this letter.

Very truly yours,

Bruce H. Burcat
Executive Director

BHB/njs

cc: The Chairman and Members of the Commission
Linda A. Mills, Sec. (File in Reg. Dckt. No. 48)
Barbara MacDonald, Esquire
Participants in PSC Reg. Dckt. No. 48

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DEC 19 1997
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PUBLIC SERVICE COMMISSION

861 SILVER LAKE BOULEVARD
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CC Docket No. 96-45
2100 M Street, N.W., 8th Floor
Washington, D.C. 20554

Universal Service Administrative Co.
100 South Jefferson Road
Whippany, New Jersey 07981

Re: **State of Delaware**
Designation of Bell Atlantic-Delaware, Inc.
as Eligible Telecommunications Carrier

Gentle persons:

Pursuant to Public Notice DA 97-1892, the Delaware Public Service Commission notifies you that it has designated Bell Atlantic-Delaware, Inc. (BA-Del), as an eligible telecommunications carrier under 47 U.S.C. § 214(e)(2). The designated service area for BA-Del is the entire State of Delaware. The designation was granted in PSC Order No. 4680 (Dec. 17, 1997), pursuant to the criteria announced in PSC Order No. 4679 (Dec. 16, 1997).

As of this date, no other common carrier has applied for designation as an eligible telecommunications carrier.

If you have any questions, please call me at (302) 739-3223. I also ask that the Secretary and USAC return to me, in the enclosed envelope, a stamp-filed copy of this letter.

Sincerely yours,

Bruce H. Burcat
Executive Director

BHB/njs

cc: The Chairman and Members of the Commission
Barbara MacDonald, Esquire
Douglas R. Smith (Bell Atlantic-Delaware, Inc.)
Participants in Reg. Dckt. No. 48
Linda A. Mills, Sec. (File in Reg. Dckt. No. 48 and
Dckt. No. 97-028T)



STATE OF DELAWARE
PUBLIC SERVICE COMMISSION

861 SILVER LAKE BOULEVARD
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

December 18, 1997

RECEIVED
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Federal Communications Comm.
Universal Service Branch
CC Docket No. 96-45
2100 M Street, N.W., 8th Floor
Washington, D.C. 20554

Universal Service Administrative Co.
100 South Jefferson Road
Whippany, New Jersey 07981

Re: **State of Delaware**
Adoption of Discount Matrix for Intrastate
Telecommunications Services Provided to
Schools and Libraries

Gentle persons:

Pursuant to Public Notice DA 97-1892, the Delaware Public Service Commission notifies you that it has adopted discounts for intrastate telecommunications services provided to eligible schools and libraries. The authorized discounts correspond to those that the FCC has set for interstate and non-telecommunications services. The Commission originally adopted an intrastate discount matrix, on an emergency basis, in PSC Order No. 4555 (July 15, 1997). It subsequently adopted rules, including a matrix, for such discounts in PSC Order No. 4601 (Sept. 23, 1997). I enclose copies of both of those Orders and the adopted Rules.

If you have any questions, please call me at 302-739-3223. I also ask that the Secretary and USAC return to me, in the enclosed envelope, a stamp-filed copy of this letter.

Very truly yours,

Bruce H. Burcat
Executive Director

BHB/njs

Enclosures: PSC Order No. 4555

PSC Order No. 4601 with Rules

cc: The Chairman and Members of the Commission (w/o encls)
Barbara MacDonald, Esquire (w/o encls)
Participants in Reg. Dckt. No. 47 (w/o encls)
Linda A. Mills, Sec. (file in Reg. Dckt. No. 47)

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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

RECEIVED

JUL 19 1997

IN THE MATTER OF THE PROMULGATION)
OF RULES REGARDING THE DISCOUNTS)
FOR INTRASTATE TELECOMMUNICATIONS) PSC REGULATION DOCKET NO. 47
AND INFORMATION SERVICES PROVIDED)
TO SCHOOLS AND LIBRARIES)
(OPENED JUNE 17, 1997))

ORDER NO. 4555

This 15th day of July, 1997, the Commission finds, determines, and Orders:

1. In PSC Order No. 4524 (June 17, 1997), the Commission proposed to adopt rules governing the discounts to be available to eligible schools and libraries for the purchase of intrastate telecommunications services. See 47 U.S.C. § 254(h)(1)(B). The proposed rules incorporate the discount matrix adopted by the Federal Communications Commission ("FCC") for interstate telecommunications and other additional services provided to eligible schools and libraries. See Federal-State Board on Universal Service, CC Dckt. No. 96-45, Report and Order, FCC 97-157 (rel. May 8, 1997) (62 Fed. Reg. 32862) ("the Universal Service Order"). The Commission's proposed rules also set forth implementing procedures similar to those adopted by the FCC. The Commission proposed the new rules, with the discount matrix,

because the FCC's Universal Service Order requires a state to adopt a discount for intrastate services as deep as the federally prescribed one in order for schools and libraries in that state to receive support, for both interstate and intrastate services, from the federal Universal Service fund. 47 C.F.R. § 54.505(e)(1).

2. Because federal support will be provided to schools and libraries nationwide under a first-come, first-served application process, the Commission sought to adopt the rules promptly to allow Delaware schools and libraries to make timely applications for support. Thus, in compliance with 29 Del. C. §§ 1133 & 10115, the Commission caused notice of the proposed rules to be published in the Delaware Register of Regulations and caused notice of a public hearing to be published in two newspapers of general circulation. However, due to the time requirements surrounding the promulgation of regulations, it would appear that a final adoption of the proposed rules cannot occur until mid-September, 1997.

3. On July 9, 1997, the Governor signed House Joint Resolution No. 9. This resolution authorizes the Commission to adopt discounts for telecommunications services provided to eligible schools and libraries for purposes of the receipt of federal universal service support. It also specifically releases

the Commission from the procedures set forth in 29 Del. C. §§ 1133 & 10115 in adopting those discounts.

4. The Commission believes that the intent of House Joint Resolution No. 9 was to allow this Commission to adopt discounts for eligible schools and libraries on an expedited basis so that our State's schools and libraries would not be delayed in applying for universal service support. In light of such direction, the Commission now decides to adopt the discount matrix set forth in the proposed rules without awaiting the public hearing and the close of the comment period ordered in PSC Order No. 4524. This prompt adoption of the discount matrix will ensure that schools and libraries in this State will have the opportunity to file for universal service support at the time the federal support administrator begins to accept applications. The Commission believes that the adoption of the discount matrix by this Order will satisfy the requirements of 47 C.F.R. § 54.505(e)(1).

5. At the same time, the Commission will continue the scheduled comment and hearing proceedings and may, after the receipt of such comments and the conclusion of the hearing, alter or amend the proposed rules based on the testimony and materials submitted.

Now, therefore, **IT IS ORDERED:**

1. That, pursuant to 47 U.S.C. § 254(h)(1)(B) and House Joint Resolution No. 9 of the 139th General Assembly, the following matrix shall be the discount rate to be applied to eligible intrastate services and facilities purchased by eligible schools, school districts, libraries, or library consortia based on the institution's level of poverty and location.

SCHOOLS & LIBRARIES DISCOUNT MATRIX	DISCOUNT LEVEL	
	urban	rural
HOW DISADVANTAGED? ----- % of students eligible for national school lunch program	discount	discount
< 1	20	25
1-19	40	50
20-34	50	60
35-49	60	70
50-74	80	80
75-100	90	90

Schools and libraries located in New Castle County and Kent County are designated as urban. Schools and libraries located in Sussex County are designated as rural. The above discounts shall be

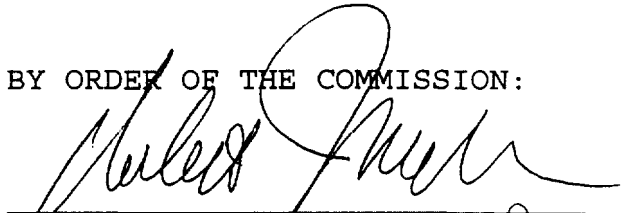
applicable only for the receipt of support from a universal service fund.

2. That the procedures set forth in PSC Order No. 4524 (June 17, 1997) shall continue to be followed and the designated Hearing Examiner shall endeavor to submit his report for Commission review by August, 1997. Interested persons shall still submit comments by July 31, 1997, and may present comments and testimony at the public hearing scheduled for August 1, 1997. The Commission reserves the right to make such modifications, amendments, and revisions to the above matrix and the rules proposed in PSC Order No. 4524 as a result of the comments and public hearing. Pursuant to the authority granted by House Joint Resolution No. 9, the Commission may do so without any further, additional publication of such changes in the Delaware Register of Regulations or in newspapers of general circulation.

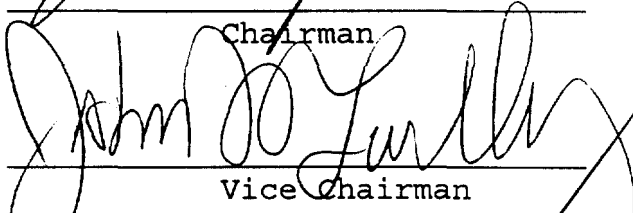
3. That the Secretary shall mail or deliver a copy of this Order to: (1) the Secretary of Education; (2) the State Librarian; (3) the Executive Director of the Office of Information Systems; (4) the Executive Director of the Delaware Center for Educational Technology; (5) the Public Advocate; and (6) all persons who have made a timely request for advance notice of rule-

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:



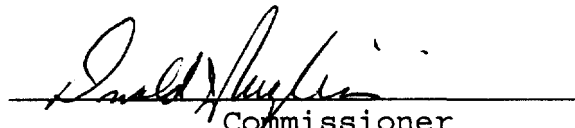
Chairman



Vice Chairman



Commissioner



Commissioner

Commissioner

ATTEST:


Secretary

NOTE: COMMISSIONER MCRAE ABSTAINED FROM VOTING.

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BEFORE THE PUBLIC SERVICE COMMISSION DO NOT REMOVE FROM OFFICE

OF THE STATE OF DELAWARE

IN THE MATTER OF THE PROMULGATION)
OF RULES REGARDING THE DISCOUNTS)
FOR INTRASTATE TELECOMMUNICATIONS)
AND INFORMATION SERVICES PROVIDED)
TO SCHOOLS AND LIBRARIES)
(OPENED JUNE 17, 1997))

PSC REGULATION
DOCKET NO. 47

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ORDER NO. 4601

This 23rd day of September, 1997, the Commission finds, determines, and orders the following:

1. Under 47 U.S.C. § 254(h)(1)(B), all telecommunications carriers serving a geographic area must, upon request, provide any services falling within the definition of universal service to elementary schools, secondary schools, and libraries at rates less than the amounts charged for similar services to other parties. Carriers providing such discounted services are to be reimbursed for the discounts under universal service support mechanisms. Under § 254(h)(1)(B), the Federal Communications Commission ("FCC") determines the discounts for eligible interstate services and the states must determine the discounts for eligible intrastate services.

2. On May 8, 1997, the FCC released its Report and Order which, in part, implemented the federal universal service

program for services to schools and libraries. Federal-State Board on Universal Service, CC Dckt. No. 96-45, Report and Order, FCC 97-157 (rel. May 8, 1997) ("the FCC Order"). The FCC Order defines which services are eligible for support, sets the discounts for interstate services, and creates a federal universal service support mechanism to fund the discounts for both interstate and intrastate services provided to schools and libraries. Eligibility for any federal support is predicated upon the state adopting a discount rate for intrastate services as deep as that chosen by the FCC for interstate services. Under the FCC Order, federal funding is to begin on January 1, 1998, but eligible schools and libraries will be able to apply for support prior to that time.

3. By PSC Order No. 4524 (June 17, 1997), the Commission initiated this docket to consider the formulation and adoption of regulations setting the discounts for intrastate telecommunications services provided to eligible schools and libraries in this State. The rules proposed by Staff, and attached to PSC Order No. 4524, suggested adoption of the federal discount matrix as the discounts for intrastate services.

4. While the proposed rules were pending before the designated Hearing Examiner, this Commission, by Order, adopted the federal discount matrix as the applicable discounts for intrastate

services. PSC Order No. 4555 (July 15, 1997). The Commission took this step in order to ensure that Delaware schools and libraries would not be delayed in applying for federal support which will be distributed on a first-come, first served basis.¹ However, by the same Order, the Commission reserved the right to revise the adopted matrix and associated rules based on comments submitted during the rule-making process.

5. After receiving comments and conducting a public hearing, the Hearing Examiner, on August 28, 1997, submitted his Report incorporating his recommendations on the proposed discounts and rules.

6. The Commission considered the Report of the Hearing Examiner and the proposed discount matrix and rules during its meeting on September 9, 1997. After deliberation, the Commission (by four affirmative votes, with Commissioner McRae recused) voted to adopt the Report of the Hearing Examiner and to adopt the proposed "Interim Rules for the Determination of Intrastate Discounts for Services Provided to Elementary and Secondary Schools and Libraries for Purposes of the Receipt of Federal Universal

¹By House Joint Resolution No. 9 (July 9, 1997), the General Assembly authorized the Commission to adopt intrastate discounts without undertaking the normal rule-making process.

Service Support," attached to the original of this Order as Exhibit "B".

7. The Commission emphasizes that the rules do not create a state universal service fund nor obligate state funds to reimburse carriers for the discounts. Rather, the rules, by adopting the discount matrix, allow carriers providing services to eligible schools and libraries at the prescribed discount to receive reimbursement from the federal universal service fund. The state rules accompanying the discount matrix are intended to merely mirror their federal counterparts. As such, the interpretation of the adopted rules will track the interpretation given the comparable federal rules and questions concerning the eligibility and the scope of support must be determined at the federal level. The Commission does not believe that, in this context, it has authority to offer any independent interpretation of its rules without placing carriers or schools and libraries in jeopardy of losing their eligibility for support.

8. The Commission has authority to adopt the discount and the accompanying rules under the provisions of 47 U.S.C. § 254(h)(1)(B) and 26 Del. C. §§ 201 and 703(3). The Commission believes that in providing for discounts on telecommunications services provided to eligible schools and libraries the Commission

acts consistent with this State's policy to make advanced telecommunications and computer technology available for use by schoolchildren within this State. See, e.g., 26 Del. C. § 711(2); 29 Del. C. § 6102A(j).

NOW, THEREFORE, IT IS ORDERED:

1. That the Commission hereby adopts the Report of the Hearing Examiner ("the Report"), attached to the original hereof as Exhibit "A".

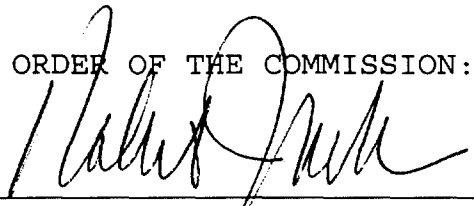
2. That, for the reasons cited in the Report, the Commission affirms its adoption, in PSC Order No. 4555 (July 15, 1997), of the federal discount matrix as the appropriate discount matrix to be applied to eligible intrastate telecommunications services and facilities purchased by eligible schools, school districts, libraries, or library consortia.

3. That, for the reasons cited in the Report, the Commission adopts the proposed "Interim Rules for the Determination of Intrastate Discounts for Services Provided to Elementary and Secondary Schools and Libraries for Purposes of the Receipt of Federal Universal Service Support", attached to the original hereto as Exhibit "B." Pursuant to 29 Del. C. § 10118, the Secretary shall forthwith forward a copy of this Order, the attached Report of the Hearing Examiner, and the adopted rules to the Delaware

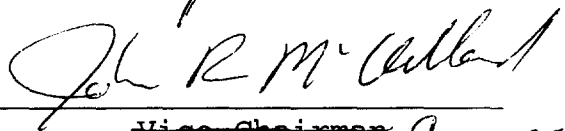
Registrar for publication in the next issue of the Delaware Register. In accordance with 29 Del. C. § 10118(e), the rules adopted herein shall become effective ten (10) days after publication in the Delaware Register. The effective date shall then be noted on the rules.

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:



Chairman



~~Vice Chairman~~ Commissioner



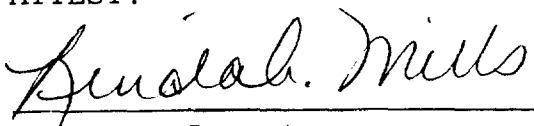
Commissioner



Commissioner

Commissioner

ATTEST:



Secretary

EXHIBIT "A"
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE PROMULGATION)	
OF RULES REGARDING THE DISCOUNTS)	
FOR INTRASTATE TELECOMMUNICATIONS)	PSC REGULATION
AND INFORMATION SERVICES PROVIDED)	DOCKET NO. 47
TO SCHOOLS AND LIBRARIES)	
(OPENED JUNE 17, 1997))	

REPORT OF THE HEARING EXAMINER

DATED: AUGUST 28, 1997

WILLIAM F. O'BRIEN
HEARING EXAMINER

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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

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IN THE MATTER OF THE PROMULGATION)	
OF RULES REGARDING THE DISCOUNTS)	
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TO SCHOOLS AND LIBRARIES)	
(OPENED JUNE 17, 1997))	

REPORT OF THE HEARING EXAMINER

William F. O'Brien, duly appointed Hearing Examiner in this Docket pursuant to 26 Del. C. §502 and 29 Del. C. Ch. 101, by Commission Order No. 4524, dated June 17, 1997, reports to the Commission as follows:

I. APPEARANCES

On behalf of the Public Service Commission Staff :
GARY A. MYERS, RATE COUNSEL

On behalf of the Participants:

Bell Atlantic-Delaware, Inc.:
DUANE, MORRIS & HECKSCHER
BY: BONNIE WOLFGANG, ESQUIRE

The Office of the Public Advocate:
RAJNISH BARUA

AT&T Communications of Delaware, Inc.:
SAUL, EWING, REMICK & SAUL
BY: SCOTT JENSEN, ESQUIRE

Delaware Division of Libraries:
CHARLESA LOWELL, DEPUTY DIRECTOR

Delaware Office of Telecommunications Management:
PETER A. LA VENIA, DIRECTOR

Delaware Center for Educational Technology:
PAUL HARJUNG, EXECUTIVE DIRECTOR

Delaware Department of Education:
THERESA V. KOUGH, EDUCATION ASSOCIATE

II. BACKGROUND

1. By PSC Order No. 4524, dated June 17, 1997, the Commission initiated this docket to consider the formulation and adoption of regulations setting the intrastate discounts applicable to certain telecommunications services provided to eligible schools and libraries within this State. The FCC's Universal Service Order conditions federal reimbursement for intrastate discounts on the state's adoption of discounts at least as deep as the schools and libraries discount matrix adopted by the Federal Communications Commission ("FCC") for *interstate* telecommunications services. Staff's proposed rules, as attached to PSC Order No. 4524, incorporate the federal discounts.

2. Because federal support will be provided to states on a first-come, first-served basis, the Commission, on July 15, 1997, by PSC Order No. 4555, adopted the discount matrix set forth in Staff's proposed rules so that schools and libraries in this State will have the opportunity to file for universal service support at the time the federal support administrator begins to accept applications.¹ However, the Commission reserved

¹ By House Joint Resolution No. 9, signed by the Governor on July 9, 1997, the General Assembly authorized the Commission to adopt the discounts prior to completion of the comment period and public hearing in this matter.

the right to revise the adopted matrix and the associated rules, based on the comments submitted in this proceeding.

3. By a Notice of Proposed Rulemaking published on June 18, 1997, and by notifying various State agencies, the Commission solicited comments concerning Staff's proposed rules.

4. On July 25, 1997, Staff submitted comments and revised proposed rules. (Exh. 13.) Staff revised the rules attached to PSC Order No. 4524 to reflect the FCC's Order on Reconsideration (Order No. 97-246, CC Docket No. 96-45) released on July 10, 1997, and FCC errata sheets released on June 4, 1997, amending the universal service order (Order No. 97-157.) Staff's comments provide background information regarding the FCC Universal Service Discount Program. (Exh. 13 at 1-5.)

5. In accordance with the schedule set out in the Notice of Proposed Rulemaking, on or about July 31, 1997, initial comments were submitted individually by Bell Atlantic NYNEX Mobile, Inc. ("BANM"), the Office of Telecommunications Management ("OTM"), the Governor's Task Force for School Libraries ("Task Force"), Bell Atlantic-Delaware, Inc. ("BA-Del"), AT&T Communications of Delaware, Inc. ("AT&T"), and the Delaware Division of Libraries. Joint comments were submitted by: (1) the Delaware Department of Education, the Delaware Center for Educational Technology ("DCET"), and the Delaware School Board Association; and, (2) the Delaware Division of Libraries, the Delaware Council on Libraries, the Delaware Library Association and the Action Agenda Implementation Committee.

6. A duly noticed² public evidentiary hearing was conducted on August 1, 1997. Those persons specified under "APPEARANCES" above participated. No members of the public appeared or otherwise participated in the proceeding.

7. In support of Staff's proposed rules and in accordance with PSC Order No. 4524, Rate Counsel moved into the record a copy of the Recommended Decision by the Federal-State Joint Board released by the Federal Communications Commission ("FCC") on November 8, 1996 (FCC Order No. 96J-3 in CC Docket No. 96-45) (Exh. 3)³, and a copy of the First Report and Order released on May 8, 1997 (FCC Order No. 97-157 in CC Docket No. 96-45) (Exh. 4).

8. Rate Counsel also moved the comments of each of the participants into the record (Exhs. 5-12). John C. Citrolo testified on behalf of Staff and Charlesa Lowell testified on behalf of the Division of Libraries.

9. At Staff's request, the record was left open after the hearing for two weeks in order to: (1) allow Staff and the participants to reply to the initial comments; (2) allow Staff to update the proposed rules based on FCC revisions; and (3) allow the participants to respond to Staff's revisions. (Tr. at 64-66.) Staff submitted its updated rules on August 8, 1997. (Exh. 14.) The final proposed rules are attached to the original hereto as

² Exh. 1 consists of the affidavits of publication of notice and Exh. 2 is a copy of the notice that appeared in the *Delaware Register of Regulations*.

³ References to the exhibits introduced into evidence at the August 1, 1997 evidentiary hearings will be cited as "Exh. ____ at ____". References to the transcript of the proceedings will be cited as "Tr. at ____."

Exhibit "A". BA-Del's August 8, 1997 reply to the initial comments was the only other post-hearing submission. (Exh. 15.)

10. After receiving into evidence the final two exhibits, the record consisted of fifteen exhibits and a 74-page *verbatim* transcript. I have considered the entire record of this proceeding and, based thereon, I submit for the Commission's consideration this Report of the Hearing Examiner.

III. STAFF'S PROPOSAL

11. In its July 25, 1997 comments, Staff asserted that in order for federal universal service support to be available for schools and libraries, states must establish intrastate rate discounts no less than the discounts applicable for interstate service. (Exh. 13 at 3.) Staff noted that FCC regulations only require adoption of the federal discount matrix but that Staff recommends adoption of a portion of the corresponding FCC rules, "for ease of reference." (*Id.* at 5; citing 47 C.F.R. 54.505(e)(1).)

12. Staff explained that the FCC Universal Service Discount Program allows eligible public and non-profit elementary and secondary schools and public libraries to receive, at a discount, any commercially available communications services, internet access, and internal connections (i.e., inside wiring). (Exh. 13 at 3.) Staff noted that the FCC program initially will establish a \$1 billion fund that will be available to provide discounts for eligible services from January 1, 1998 through June 30, 1998. After that, the fund will be capped at \$2.25 billion per year.

13. Those eligible to receive discounts include all public libraries, public schools (K-12), and those non-profit schools (K-12) without an endowment exceeding \$50 million. The level of discount depends on: (1) whether the school or library is in an urban area (New Castle County and Kent County) or rural area (Sussex County); and (2) the level of poverty, as measured by the percentage of student enrollment in the school or school district that is eligible for the national school lunch program. Generally, the discounts range from 20%-90% of the pre-discount price. Staff's proposed rules detail the application procedure and eligibility requirements. (See Exhibit "A" to this Report.)

14. On August 8, 1997, Staff submitted its second revised rules, based on recent FCC amendments, with only minor editorial changes. (Exhibit "A" to this Report includes these revisions.) In order to preserve the eligibility of Delaware's schools and libraries, Staff recommended that the rules remain flexible to allow for revisions based on future FCC amendments. (Exh. 13 at 5.)

IV. SUMMARY OF COMMENTS AND DISCUSSION

15. The Commission has jurisdiction over this matter under 26 Del. C. §703(4), which authorizes the Commission to undertake proceedings that may be required by the Telecommunications Act of 1996, and under 26 Del. C. § 209, which authorizes the Commission to issue regulations to be followed by any public utility.

16. In its Notice of Proposed Rulemaking for this docket, the Commission requested comments on three issues, discussed below under "A", "B", and "C".

A. Do any provisions of State law bar adoption of the federal discount matrix and the competitive bidding process for intrastate services provided to schools and libraries?

17. None of the participants asserted that Delaware law bars either the adoption of the federal discount matrix or the competitive bidding procedures. Regarding Delaware's prohibition against "unduly preferential" or "unjustly discriminatory" rates (26 Del. C. § 303(a)), BA-Del asserted:

Almost by definition, discounts provided to achieve the legitimate state and federal policies of extending to schools and libraries affordable access to modern telecommunications services - while arguably "preferential" and "discriminatory" - are certainly not "*unduly preferential*" or "*unjustly discriminatory*".

(Exh. 10 at 2.) (Emphasis in original.)

18. With respect to competitive bidding, BA-Del noted that the sixty-day notice requirement for changes to "basic" service rates under the Telecommunications Technology Investment Act ("TTIA") would hamper BA-Del's opportunity to respond to a request for service from an eligible school or library. (Id.) Therefore, BA-Del recommended that the Commission, by rule, waive the sixty-day notice requirement for "good cause shown," in accordance with § 304. (Id. at 3.)

19. AT&T asserted that Delaware law exempts from the state competitive bidding process those projects or activities which are to be reimbursed in whole or in part by the federal government, if such reimbursement is conditioned on using the federal bidding process. (Exh. 11 at n. 3, citing 29 Del. C. § 6914.) Thus, AT&T concluded that, if the federal competitive bidding law conflicts with the state's, the federal process may lawfully supplant Delaware bidding procedures, in this case.

20. I concur with the above reasons and recommend that the Commission find that state law does not bar adoption of the federal discount matrix or the proposed competitive bidding process for intrastate services provided to schools and libraries. However, I do not recommend that the Commission address, in this proceeding, BA-Del's request for a waiver of the TTIA's sixty-day notice requirement for changes to "basic" services. I believe the issue warrants more attention than what was possible in the scope of this proceeding and I recommend that the Commission consider the matter in another proceeding, perhaps the universal service docket, PSC Regulation Docket No. 48. I note that neither Staff nor the other participants addressed the issue in this docket.

B. What is the appropriate discount for intrastate services during the period through December 31, 1998 and, in particular, should the PSC adopt discounts deeper or slighter than the federal matrix?

21. All participants responded that the Commission should adopt the federal discount matrix for the period through December 31, 1998. BA-Del and AT&T noted that adoption of lower discounts would disqualify Delaware schools and libraries from receiving federal universal service support for intrastate services. (Exh. 10 at 3; Exh. 11 at 3.) BA-Del asserted that it is premature to decide whether there is need for discounts higher than the "very generous" federal matrix discounts. AT&T noted that adopting higher discounts would leave a portion of the subsidy unfunded and would require the Commission to establish a local funding mechanism from Delaware ratepayers. (Id.)

22. For these reasons, I recommend that the Commission affirm its July 15, 1997 adoption of the federal discount matrix as the appropriate discounts for intrastate services. (PSC Order No. 4555.)